

III. REMARKS

Claim Rejections - 35 USC § 102

Claim 1 was rejected in the Office Action under 35 USC § 102(b) as anticipated by Schiller (5012596).

Claim Rejections - 35 USC § 103

Claims 1-20 were rejected in the Office Action under 35 USC § 103(a) as obvious to Margolin (2405224) in view of Schiller.

Response to Rejections, Amendments to the Claims & Request for Reconsideration

Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1-20. All claims (through elements recited in independent claims 1, 7 and 16) specify an insole cushion secured over the insole blank. In contrast, the cushion 56 of Schiller is removable and may be "eliminated altogether" (col. 6, line 41). Therefore, Schiller does not anticipate claim 1 as suggested in the Office Action.

As to the rejection of claim 1 under 103(a), Schiller teaches to utilize a removable cushion that may be "eliminated altogether." If an insole cushion "as taught in Schiller" (as suggested in the Office Action) is incorporated into the shoe of Margolin, the result will be a shoe with a removable insert that may be "eliminated altogether," which is not secured into position as recited in claim 1. Therefore, Margolin in view of Schiller does not render claim 1 obvious as such a shoe lacks the insole cushion secured into position in the shoe. For at least the same reasons, claims 2-20 are not obvious as to Margolin in view of Schiller.

To further distinguish claim 1 from Margolin and Schiller, clause (a) has been amended to include: -- the insole further having a covering wrapped snugly over at least the top forepart of the cushion and around the outer edges of the top cushion and the insole blank --.

As to the rejection of claim 7 under 103(a), this claim recites in clause (d) a midsole with an outer stabilizing perimeter part generally tracking the outer perimeter of the insole and outsole, and a soft cushion part in compressible contacting relation between the foreparts of the insole and outsole. To clarify this aspect of claim 7, clause (d) has been amended to read "... and a distinct soft center cushion part located in the perimeter part in compressible contacting relation between the foreparts of the insole and outsole, the center cushion part and the stabilizing perimeter part having approximately the same thickness." Therefore, Margolin in view of Schiller further does not render claim 7 obvious as such a shoe lacks the midsole parts as

specified. For at least the same additional reasons, claims 8-15 and new claims 21-22, which depend from claim 7, are not obvious as to Margolin in view of Schiller.

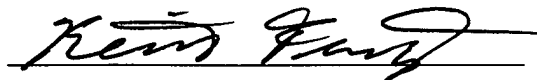
As to the rejection of claim 16 under 103(a), clauses (d) and (e) have been amended to clarify that the insert in the insole and the midsole cushion are separate parts, having approximately the same thickness as the insole blank and the midsole perimeter, respectively. Neither Margolin or Schiller contemplate or suggest this arrangement, and therefore further do not render claim 16 obvious. For at least the same additional reasons, claims 17-20 and new claim 22, which depend from claim 16, as well as claims 6 and 14 for comparable reasons, are not obvious as to Margolin in view of Schiller.

As to rejection of claims 2-4, 9-12 and 17-19, Applicant respectfully submits that the compression parameters and materials recited therein are unique and non-obvious when considered with the additional elements of the base claim and all intervening claims.

The additional prior art cited in the office action does not support rejection of the claims. Turner, Jr. (4182005) utilizes a covered foam material 35 which is secured to the outsole 15, and which accomplishes the same cushioning effect of the midsole of Margolin. Turner et al (4364188), Autry et al (4667423) and Pyle (6038790) disclose athletic shoes of substantially different construction than the present invention. Brown (6101743) discloses a technique in an orthotic shoe to secure a cushion into the separated edge of a laminated rigid rearfoot plate. Lurie shows a shoe with a transverse bar at the base of the platform. The shoe of Franklin utilizes a rigid rocker element between the foreparts of the insole and midsole. None of these patents disclose alone, or in combination with Schiller and/or Margolin, the present invention as recited in the claims hereof.

For the above and additional reasons, Applicant respectfully submits that the claims 1-23 are allowable over Schiller and Margolin, as well as the additional art of record, and requests reconsideration and withdrawal of the rejection of claims 1-20 and allowance of claims 1-23.

Respectfully submitted,



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